S.B. Civil Writ Petition No.5546/2004
(Firm Messrs Ashok Kothari, Balotra
V/s
Khadi Udhayogic Uttapadak Sahakari Samiti Ltd.& Ors.)

Date of Order : 11/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr.Hemant Shrimali, for the petitioner/s

Heard the learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 22.9.1997, by which the petitioner's application under Order 6 Rule 17 CPC was dismissed by the trial court.

According to the learned counsel for the petitioner, the petitioner wants to amend the written statement and plead that in case decree for eviction will be passed, the petitioner will suffer greater hardship.

The trial court rejected the said prayer on the ground that since there is a settled law, in a suit for eviction founded upon the ground of personal bonafide necessity of the landlord, the court is required to examine comparative hardship of the landlord and tenant and the trial court has already framed the issue for that purpose, therefore, there is no necessity of permitting the defendant tenant to amend the written statement.

In view of the above, both the parties can lead their evidence to prove their hardship.

In view of the above, I do not find that the trial court has committed any error in rejecting the application of the petitioner under Order 6 Rule 17 CPC. Therefore, I do not find any merit in this writ petition, hence, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA)J.

Rm/